

Appln. No. 10/076,563
Amendment dated October 27, 2005
Reply to Office Action mailed July 27, 2005

REMARKS

Reconsideration is respectfully requested.

Entry of the above amendments is courteously requested in order to place all claims in this application in allowable condition and/or to place the non-allowed claims in better condition for consideration on appeal.

Claims 3 through 9 remain in this application. Claims 1 through 2 and 10 through 20 have been cancelled. No claims have been withdrawn or added.

Paragraphs 1 through 3 of the Office Action

Claims 1 through 9 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Yagi in view of Garfinkel and further in view of Gardner.

Claims 10 and 11 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Yagi in view of Garfinkel and Cardner and further in view of Comparetto.

Claims 12 through 20 have been rejected under 35 U.S.C. Section 103(a) as being unpatentable over Yagi in view of Garfinkel and Gardner further in view of Comparetto.

Claim 3 has been written into independent form without incorporating any limitations that did not previously appear in claim 3 and the claims from which it previously depended, and therefore consideration of claim 3 cannot be said to present new issues, or require further searching due to a combination of elements that were not previously considered.

Claim 3 requires, in part, "a plurality of buttons being operationally coupled to said playing assembly, *said buttons being positioned in said perimeter wall of said helmet proximate said front opening of said helmet* such that said buttons are adapted for being easily accessible by the user,

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each of said buttons being for controlling a function of said playing assembly when said buttons are actuated by the user" (emphasis added). In addition to enhancing the access to the buttons when the helmet is being worn, it is submitted that the claimed positioning also facilitates access to the buttons when the helmet is not being worn and the helmet is placed on a surface by orienting the buttons in an upward and forward direction.

It is asserted in the Office Action that "Official Notice is taken that these buttons are well known in the art. It would have been obvious to one of ordinary skill in the art to replace switches with buttons and place the plurality of buttons anywhere on the perimeter of the helmet so that helmet users can access the plurality button easily". However, it is submitted that the positioning of buttons "anywhere" on the helmet is not an obvious matter, and it is submitted that the fact that the Examiner's search of the prior art evidently was not able to turn up any reference that disclosed the claimed positioning is evidence of that non-obviousness. Further, the applicant in the text of the claim has pointed out the benefit of the claimed positioning of the buttons, and nothing in the prior art appears to even suggest this positioning would be beneficial.

It is therefore submitted that the cited patents, and especially the allegedly obvious combination of Yagi, Garfinkel, Gardner, and Comparetto set forth in the rejection of the Office Action, would not lead one skilled in the art to the applicant's invention as required by claim 3. Further, claims 4 through 9, which depend from claim 3, also include the requirements discussed above and therefore are also submitted to be in condition for allowance.

Withdrawal of the §103(a) rejections of claims 3 through 9 is therefore respectfully requested.

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CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited.

Respectfully submitted,

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